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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,569	02/25/2005	Terry Cassaday	56836.40/eig	3042

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EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/525,569	Applicant(s) CASSADAY, TERRY	
	Examiner Sarah B. McPartlin	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgement is made of applicant's claim for foreign priority based on application number 2399823 filed in Canada on August 26, 2002.

Claim Objections

2. Claims 5-6 are objected to because of the following informalities: It appears as if the word "senor" should be replaced with the word - - sensor - -. Claim 6 is objected to as being dependent upon an objected base claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 claims a member, selected from the group of members consisting of a chair member, a bed member and a lounge member in lines 1-3. In line 5 of claim 1, "the chair" is positively claimed. Furthermore, in line 3 of claim 7, "the chair" is positively claimed. Finally, in line 3 of claim 8, "said chair" is positively claimed. It is unclear whether or not applicant intends to limit the member to a chair alone in claims 1, 7 and 8. In the interest of compact prosecution, the Examiner assumes in the current office

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action that claims 1 and 7 do not limit the member to a chair alone. Clarification is requested.

The following words/phrases lack sufficient antecedent basis:

- said control (claim 9, lines 1-2; claim 10, lines 1-2)

In the interest of compact prosecution, the Examiner assumes in the current office action that claims 9 and 10 were intended to depend from claim 8.

Claims 2-6 and 11-17 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2, 8 and 12 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 102(b) as being anticipated by Ortlieb (4,933,618). Ortlieb discloses a member (3) selected from the group of members consisting of a chair member, a bed member and a lounge member, said member (3) including means

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(7)(10) having electrical power requirements, said member (3) also having an energy converter (9) which converts energy to which the chair (3) is exposed to electrical energy for meeting the electrical power requirements.

With respect to claim 2, said energy converter (9) comprises a solar panel (9) provided on an exposed surface (unlabeled) of said member (3).

With respect to claim 8, the means having electrical power requirements (7)(10) comprises a control (10) for said chair (8).

With respect to claim 12, an electrically operated body repositioning means (7) is powered by the energy converter (9).

7. Claims 1-2, 7 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Jansen (6,855,016). With respect to claim 1, Jansen discloses a member (1) selected from the group of members consisting of a chair member, a bed member and a lounge member, said member including means having electrical power requirements (33), said member (1) also having an energy converter (44)(22) which converts energy to which the member is exposed to electrical energy for meeting the electrical power requirements.

With respect to claim 2, said energy converter (44)(22) comprises a solar panel provided on an exposed surface of said member (1).

With respect to claim 7, said energy converter (44)(22) comprises a generator (22), which converts motion of the member (1) at the pedals (23) to electrical energy.

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With respect to claim 11, a power pack (42) in the form of a battery is charged by said energy converter (44), said power pack storing the electrical energy and dispersing the electrical energy as required.

8. ^{8, 9, 10} Claims 1 and 5-6 are rejected as best understood under 35 U.S.C. 102(e) as being unpatentable over Ziegler et al. (6,393,348). Ziegler discloses a member (1) selected from the group of members consisting of a chair member, a bed member and a lounge member, said member (1) including a means (5)(6) having electrical power requirements, said member also having an energy converter, in the form of a 3-volt DC power source (column 4, line 47) and amplifier (13) combined, which converts energy to which the member (1) is exposed to electrical energy for meeting the electrical power requirements.

With respect to claim 5, said means having electrical power requirements (5) comprises a biorhythm sensor given that element (5) senses temperature, respiration and heart rate.

With respect to claim 6, said means having electrical power requirements additionally comprises a digital display (6) for displaying biorhythms sensed by said sensor (5).

With respect to claim 8, said means having electrical power requirements (5)(6) includes a control (24) for said member (1).

With respect to claim 9, said control (24) provides audio feedback in the form of an alarm (27) providing directions for use of said control.

With respect to claim 10, said control (24) provides electrical adjustment for the alarm which is an adjustable part of said member (1).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2-4 are rejected as best understood under 35 U.S.C. 103(a) as being unpatentable over Ziegler et al. (6,393,348) in view of Ortleib (4,933,618). As disclosed above, Ziegler et al. discloses all claimed elements with the exception of an energy converter in the form of a solar panel.

Ortleib teaches the use of a solar panel (9) for power electrical components of a seat.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use a solar panel (9) as taught by Ortleib to power the sensor and display units disclosed by Ziegler. Solar power is better for the environment and also helps ensure that the vital sensing device is still functional even if the car is turned off.

11. Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ortleib (4,933,618) in view of Burt (US 2002/0056709). As disclosed above, Ortleib reveals all claimed elements with the exception of said body repositioning means

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comprising a lumbar adjustment member controlled by a timer, an electrically operated vibrator powered by said energy converter and controlled by a timer and a heater.

Burt teaches the use of lumbar supports (20) that include heated electrically conductive elastomeric materials. The expansion and contraction of the lumbar elements are traditionally controlled by a timer (paragraph [0004]) and provide a vibrating motion.

It would have been obvious to add the heated, vibrating lumbar support elements to the seat disclosed by Ortleib. Such a modification would ensure that seat occupants do not get fatigued backs while sitting in the seat.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Phillips (5,544,671); Patterson (5,944,384); DeLeu (6,000,353); Cravenor (5,893,608); Ogasawara (5,523,664); Muller (6,749,257); Fite (5,329,716); Schreiber (5,975,630) and Jacoway (US 2001/0045763).


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBM
May 4, 2006


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